IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 37130 of 2007(T)

PETITIONERS:

1. **P.J.JAMES, PALLIKKARAYIL (H), PUNCHAKUNNU BHAGAM, MUTTOM P.O., THODUPUZHA.**

2. **SHAJI THOMAS, PUNNETHANIYIL HOUSE, PUNCHAKUNNU BHAGAM, MUTTOM P.O., THODUPUZHA.**

BY ADV. SRI.T.J.MICHAEL

RESPONDENTS:

1. **ANNAMMA, W/O.SAMUAL, KANDATHINKARA(H) CHALLAVAYAL KARA, MUTTOM P.O., THODUPUZHA.**

2. **WILSON K.SAM, KANDATHINKARA HOUSE, CHALLAVAYAL KARA, MUTTOM P.O., THODUPUZHA.**

3. **K.M.JOSEPH BINOY, KALLARACKAL HOUSE, MUTTOM P.O., THODUPUZHA.**

4. **LEELAMMA, W/O.LATE THOMAS, POOVATHUMKAL (H), PUNCHAKKUNNU BHAGAM, MUTTAM, THODUPUZHA.**

5. **LIJU THOMAS POOVATHUMKAL (H), PUNCHAKKUNNU BHAGAM, MUTTAM, THODUPUZHA.**

6. **REENA THOMAS POOVATHUMKAL (H) PUNCHAKKUNNU BHAGAM, MUTTAM, THODUPUZHA.**

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.37130 OF 2007

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Dated this the 17th day of December 2007

JUDGMENT

This writ petition is preferred against the order in I.A.No.109 of 2007 in A.S.No.137 of 2006 of the Addl. District Court, Thodupuzha. It was an application seeking the production of a document from the Muttom Grama Panchayath. The appellate court held that it will not be justifiable to allow the application and dismissed the same. Learned counsel has brought to my notice the decision of the Apex Court reported in State of Rajasthan v. T.N.Sahani and others(2001) 10 SCC 619. The Apex Court has held that it is always open to the court to look into the documents and for that purpose amended provision of Order 41 Rule 27(b) C.P.C. can be invoked. So the application under Order 41 Rule 27 should have been decided along with the appeal. Had the Court found the documents necessary to pronounce the judgment in the appeal in a more satisfactory manner it would have allowed the same; if not, the same would have been dismissed at that stage. But taking a view on the application before hearing of the appeal, would be inappropriate.

In the light of the above decision, it is desirable that this application is to be considered along with the appeal. Therefore, I set aside the order passed by the Addl.District Judge and direct him to restore that application and consider it and dispose it of along with the appeal.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-